

AMENDED IN ASSEMBLY JUNE 23, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1543

Introduced by Assembly Member Brough
(Principal coauthor: Assembly Member Hadley)
(Coauthors: Assembly Members Harper and O'Donnell)
(Coauthor: Senator Bates)

May 20, 2015

An act to amend Section 597 of the Penal Code, relating to animals, ~~making an appropriation therefor~~, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1543, as amended, Brough. Animals: abuse.

Existing law prohibits, subject to exceptions, specified acts of animal abuse including, among others, the malicious and intentional maiming, mutilation, torture, or wounding of a living animal. Under existing law, a violation of those provisions is punishable as a felony by imprisonment in a county jail for 16 months, or 2 or 3 years, or by a fine of not more than \$20,000, or by both that fine and imprisonment, or alternatively, as a misdemeanor by imprisonment in a county jail for not more than one year, or by a fine of not more than \$20,000, or by both that fine and imprisonment.

This bill would require a person who violates the animal abuse prohibitions described above to be punished by a fine of not more than \$5,000 for each violation, in addition to the fines described above. The bill would require those additional fines to be ~~deposited into the Victims of Animal Abuse Fund, which would be established by the bill. The bill would require the Veterinary Medical Board to administer the fund,~~

~~and would continuously appropriate all money deposited in the fund to the board for the bill's purposes; paid to the local public animal control agency that has jurisdiction over the location where the violation occurred.~~ The bill would generally require the ~~board~~ agency to use the ~~money in the fund~~ moneys paid as a fine to compensate the owner or caretaker of an animal that requires medical care, rehabilitation, or recovery as a result of a violation of the animal abuse prohibitions described above for the costs incurred by the owner or caretaker for the animal's medical care, rehabilitation, or recovery. The bill would also require, in addition to any other penalty provided by law, a person who violates the animal abuse prohibitions described above in a rehabilitative facility for animals to pay for and successfully complete an appropriate counseling course, as determined by the court, designed to evaluate and treat behavior or conduct disorders. The bill would define "rehabilitative facility for animals" for these purposes as a facility at which medical care or rehabilitative services are provided to animals, including, but not limited to, an animal sanctuary, animal shelter, or aquarium. By increasing the penalties for existing ~~crimes~~, *crimes and increasing the duties of a public animal control agency relative to the use of the moneys paid as a fine*, the bill would impose a state-mandated local program.

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: ~~yes~~-no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 597 of the Penal Code is amended to
2 read:

3 597. (a) Except as provided in subdivision (c) of this section
4 or Section 599c, a person who maliciously and intentionally maims,
5 mutilates, tortures, or wounds a living animal, or maliciously and
6 intentionally kills an animal, is guilty of a crime punishable
7 pursuant to subdivision (d).

8 (b) Except as otherwise provided in subdivision (a) or (c), a
9 person who overdrives, overloads, drives when overloaded,
10 overworks, tortures, torments, deprives of necessary sustenance,
11 drink, or shelter, cruelly beats, mutilates, or cruelly kills an animal,
12 or causes or procures an animal to be so overdriven, overloaded,
13 driven when overloaded, overworked, tortured, tormented, deprived
14 of necessary sustenance, drink, shelter, or to be cruelly beaten,
15 mutilated, or cruelly killed; and whoever, having the charge or
16 custody of an animal, either as an owner or otherwise, subjects an
17 animal to needless suffering, or inflicts unnecessary cruelty upon
18 the animal, or in any manner abuses an animal, or fails to provide
19 the animal with proper food, drink, or shelter or protection from
20 the weather, or who drives, rides, or otherwise uses the animal
21 when unfit for labor, is, for each offense, guilty of a crime
22 punishable pursuant to subdivision (d).

23 (c) A person who maliciously and intentionally maims,
24 mutilates, or tortures a mammal, bird, reptile, amphibian, or fish,
25 as described in subdivision (e), is guilty of a crime punishable
26 pursuant to subdivision (d).

27 (d) (1) A violation of subdivision (a), (b), or (c) is punishable
28 as a felony by imprisonment pursuant to subdivision (h) of Section
29 1170, or by a fine of not more than twenty thousand dollars
30 (\$20,000), or by both that fine and imprisonment, or alternatively,
31 as a misdemeanor by imprisonment in a county jail for not more
32 than one year, or by a fine of not more than twenty thousand dollars
33 (\$20,000), or by both that fine and imprisonment.

34 (2) (A) A person who violates subdivision (a), (b), or (c) shall,
35 in addition to the fines imposed pursuant to paragraph (1), be
36 punished by a fine of not more than five thousand dollars (\$5,000)
37 for each violation.

1 (B) The fines required by subparagraph (A) shall be deposited
2 into the Victims of Animal Abuse Fund, which is hereby
3 established in the State Treasury. For purposes of this paragraph,
4 “fund” means the Victims of Animal Abuse Fund. *paid to the local*
5 *public animal control agency that has jurisdiction in the location*
6 *where the violation was committed.*

7 ~~(C) The Veterinary Medical Board shall administer the fund~~
8 ~~consistent with this paragraph. Notwithstanding Section 13340 of~~
9 ~~the Government Code, all money deposited in the fund is hereby~~
10 ~~continuously appropriated to the Veterinary Medical Board, without~~
11 ~~regard to fiscal years, for the purposes of this paragraph.~~

12 ~~(D)~~
13 (C) Except as provided in subparagraph (E), the ~~Veterinary~~
14 ~~Medical Board~~ *local public animal control agency* shall use the
15 ~~money in the fund~~ *moneys paid as a fine pursuant subparagraph*
16 *(A) to compensate the owner or caretaker, including a nonprofit*
17 *organization, of an animal that requires medical care, rehabilitation,*
18 *or recovery as a result of a violation of subdivision (a), (b), or (c)*
19 *for the costs incurred by the owner or caretaker for the animal’s*
20 *medical care, rehabilitation, or recovery.*

21 ~~(E)~~
22 (D) (i) If the owner or caretaker of an animal that requires
23 medical care, rehabilitation, or recovery as a result of a violation
24 of subdivision (a), (b), or (c) is the person who violated any of
25 those subdivisions, the owner or caretaker shall not receive money
26 from the ~~fund~~; *local public animal control agency*, and instead,
27 ~~money in the fund~~ *moneys paid to the agency as a fine pursuant*
28 *to subparagraph (A) may be used to compensate another person,*
29 *including a nonprofit organization, who incurs costs for the*
30 *animal’s medical care, rehabilitation, or recovery.*

31 (ii) If an animal that requires medical care, rehabilitation, or
32 recovery as a result of a violation of subdivision (a), (b), or (c) has
33 no identifiable owner or caretaker, ~~money in the fund may be used~~
34 *the local public animal control agency may use moneys paid to*
35 *the agency as a fine pursuant to subparagraph (A) to compensate*
36 *a person, including a nonprofit organization, who incurs costs for*
37 *the animal’s medical care, rehabilitation, or recovery.*

38 ~~(F) The Veterinary Medical Board may promulgate regulations~~
39 ~~to implement this paragraph.~~

1 (3) (A) Except as provided in subdivision (h), a person who
2 violates subdivision (a), (b), or (c) in a rehabilitative facility for
3 animals shall, in addition to any other penalty provided by law,
4 pay for and successfully complete an appropriate counseling course,
5 as determined by the court, designed to evaluate and treat behavior
6 or conduct disorders. If the court finds that a defendant is
7 financially unable to pay for that counseling, the court may develop
8 a sliding fee schedule based upon the defendant's ability to pay.
9 An indigent defendant may negotiate a deferred payment schedule,
10 but shall pay a nominal fee if the defendant has the ability to pay
11 the nominal fee. If an indigent defendant cannot pay the nominal
12 fee, the fee shall be waived.

13 (B) For purposes of this paragraph, "rehabilitative facility for
14 animals" means a facility at which medical care or rehabilitative
15 services are provided to animals, including, but not limited to, *an*
16 animal sanctuary, animal shelter, or ~~an~~ aquarium.

17 (e) (1) Subdivision (c) applies to a mammal, bird, reptile,
18 amphibian, or fish that is a creature described as follows:

19 (A) Endangered species or threatened species as described in
20 Chapter 1.5 (commencing with Section 2050) of Division 3 of the
21 Fish and Game Code.

22 (B) Fully protected birds described in Section 3511 of the Fish
23 and Game Code.

24 (C) Fully protected mammals described in Chapter 8
25 (commencing with Section 4700) of Part 3 of Division 4 of the
26 Fish and Game Code.

27 (D) Fully protected reptiles and amphibians described in Chapter
28 2 (commencing with Section 5050) of Division 5 of the Fish and
29 Game Code.

30 (E) Fully protected fish as described in Section 5515 of the Fish
31 and Game Code.

32 (2) This subdivision does not supersede or affect any law relating
33 to taking of the described species, including, but not limited to,
34 Section 12008 of the Fish and Game Code.

35 (f) For the purposes of subdivision (c), each act of malicious
36 and intentional maiming, mutilating, or torturing a separate
37 specimen of a creature described in subdivision (e) is a separate
38 offense. If a person is charged with a violation of subdivision (c),
39 the proceedings shall be subject to Section 12157 of the Fish and
40 Game Code.

(g) (1) Upon the conviction of a person charged with a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, all animals lawfully seized and impounded with respect to the violation by a peace officer, officer of a humane society, or officer of a pound or animal regulation department of a public agency shall be adjudged by the court to be forfeited and shall thereupon be awarded to the impounding officer for proper disposition. A person convicted of a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, shall be liable to the impounding officer for all costs of impoundment from the time of seizure to the time of proper disposition.

(2) Mandatory seizure or impoundment shall not apply to animals in properly conducted scientific experiments or investigations performed under the authority of the faculty of a regularly incorporated medical college or university of this state.

(h) Notwithstanding any other law, if a defendant is granted probation for a conviction under this section, the court shall order the defendant to pay for, and successfully complete, counseling, as determined by the court, designed to evaluate and treat behavior or conduct disorders. If the court finds that the defendant is financially unable to pay for that counseling, the court may develop a sliding fee schedule based upon the defendant's ability to pay. An indigent defendant may negotiate a deferred payment schedule, but shall pay a nominal fee if the defendant has the ability to pay the nominal fee. County mental health departments or Medi-Cal shall be responsible for the costs of counseling required by this section only for those persons who meet the medical necessity criteria for mental health managed care pursuant to Section 1830.205 of Title 9 of the California Code of Regulations or the targeted population criteria specified in Section 5600.3 of the Welfare and Institutions Code. The counseling specified in this subdivision shall be in addition to any other terms and conditions of probation, including any term of imprisonment and any fine. This subdivision specifies a mandatory additional term of probation and is not to be utilized as an alternative in lieu of imprisonment pursuant to subdivision (h) of Section 1170 or county jail when that sentence is otherwise appropriate. If the court does not order custody as a condition of probation for a conviction under this section, the court shall specify on the court record the reason or

1 reasons for not ordering custody. This subdivision shall not apply
2 to cases involving police dogs or horses as described in Section
3 600.

4 ~~SEC. 2. No reimbursement is required by this act pursuant to~~
5 ~~Section 6 of Article XIII B of the California Constitution because~~
6 ~~the only costs that may be incurred by a local agency or school~~
7 ~~district will be incurred because this act creates a new crime or~~
8 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
9 ~~for a crime or infraction, within the meaning of Section 17556 of~~
10 ~~the Government Code, or changes the definition of a crime within~~
11 ~~the meaning of Section 6 of Article XIII B of the California~~
12 ~~Constitution.~~

13 *SEC. 2. No reimbursement is required by this act pursuant to*
14 *Section 6 of Article XIII B of the California Constitution for certain*
15 *costs that may be incurred by a local agency or school district*
16 *because, in that regard, this act creates a new crime or infraction,*
17 *eliminates a crime or infraction, or changes the penalty for a crime*
18 *or infraction, within the meaning of Section 17556 of the*
19 *Government Code, or changes the definition of a crime within the*
20 *meaning of Section 6 of Article XIII B of the California*
21 *Constitution.*

22 *However, if the Commission on State Mandates determines that*
23 *this act contains other costs mandated by the state, reimbursement*
24 *to local agencies and school districts for those costs shall be made*
25 *pursuant to Part 7 (commencing with Section 17500) of Division*
26 *4 of Title 2 of the Government Code.*

27 SEC. 3. This act is an urgency statute necessary for the
28 immediate preservation of the public peace, health, or safety within
29 the meaning of Article IV of the Constitution and shall go into
30 immediate effect. The facts constituting the necessity are:

31 In order to provide victims of animal abuse with restitution for
32 the costs associated with medical care and recovery for animals
33 resulting from that abuse at the earliest possible time, it is necessary
34 for this act to take effect immediately.